



**FIRST - TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)**

Case Reference : **LON/00AW/MNR/2024/0204**

Property : **Flat 12, 117A Lancaster Road, London W11 1QT**

Tenant : **Mr Richard Bereton**

Landlord : **Notting Hill Genesis**

Date of Objection : **26 March 2024**

Type of Application : **Determination of a Market Rent sections 13 & 14 of the Housing Act 1988**

Tribunal : **Judge Dutton
Mrs S Phillips MRICS**

Date of determination : **20 August 2024**

Date of Full Reasons : **28 August 2024**

DECISION

The Tribunal determines a rent of £427.50 per week with effect from 20 August 2024.

FULL REASONS

Decisions of the tribunal

- (1) The Tribunal determines a rent of £427.50 per week inclusive of services of £16.82 per week.

The application

1. On 20 February 2024 the Landlord served a notice under Section 13(2) of the Housing Act 1988 which proposed a new rent of £159.48 to include fixed services of £16.82 in place of the existing rent of £132.46 per week with fixed service charges of £13.74, to take effect from 1 April 2024.
2. On 26 March 2024 under Section 13(4)(a) of the Housing Act 1988, the Tenant referred the Landlord's notice proposing a new rent to the Tribunal for determination of a market rent. The Tenant's referral was received by the Tribunal on 26 March 2024

Background

3. The application indicated that Mr Bereton had been the tenant since 20 November 2000 of a second floor flat comprising 2 rooms, a kitchen and bathroom. The flat is in a building of 17 flats above museum premises. The repairing obligations are as contained in an agreement dated 17 November 2000 (the Agreement). The tenancy agreement which is an Assured Tenancy provides for fixed service charge costs, the details of the services provided are set out in the Agreement.
4. The Landlords notice seeking the increase in rent is dated 20 February 2024 is a detailed document and confirms the fixed service charges to be sought at £16.82 per week. A breakdown of the service charge costs is given.
5. Mr Bereton has made a complaint to the Landlord on it would seem 23 and 24 April 2024 concerning the charges.
6. The landlord has not responded. Neither party provided us with any comparable property details to assist us in our determination

Inspection

7. We did not inspect the property but relied on the documents supplied by the parties.

The Law

8. We must first determine that the landlord's notice under section 13(2) satisfied the requirements of that section and was validly served.
9. The Housing Act 1988, section 14 requires us to determine the rent at which it considered that the subject property might reasonably be expected to be let on the open market by a willing landlord under an assured tenancy.
10. In so doing we are required by section 14(1), to ignore the effect on the rental value of the property of any relevant tenant's improvements as defined in section 14(2) of that Act.

Valuation decision

11. The Tribunal has consideration of the written submissions provided by the Tenant and the Landlord, the latter being set out in the document headed 'Your new rent, service and other charges'. We have noted also the tenant's complaints made before the referral to us, which appeared to centre on the services charged levied at a fixed rate. The tenancy agreement produced includes provisions for a charge in respect of fixed service charges shown as being £9.91 at the time of the agreement but now said to be £16.82 per week in respect of the matters set out the Landlord's document referred to above. Our requirement is to determine the appropriate market rent not to determine the level of services, which being fixed would not seem to fall within the Landlord and Tenant Act 1985 (s18)

Determination and Valuation

12. Using our own expert and general knowledge of rental values in the area, in the absence of any evidence from the parties, we consider that the open market rent for the property in good tenable condition would be in the region of £450 per calendar week. From this level of rent we have made adjustments in relation to the tenant's limited liability for repair and decoration which we assess at 5%. Thus, taking a full market rent for a property in the tenable condition and deducting £22.50 per week for the repairing obligations leaves an open market rent of £427.50.
13. The Tribunal directs the new rent of £427.50 inclusive to take effect on 20 August 2024. The Tribunal was satisfied that a starting date of that specified in the Landlord's notice would cause the tenant undue hardship.

14. We should comment that the rent fixed by the Tribunal is the maximum rent and the Landlord may not charge a rent above that figure. However, in many cases when the Landlord is a Registered Social Landlord, the rent charged may be significantly less than the rent fixed by the Tribunal. Indeed, the Landlord seems to be seeking a rent of £159.48
15. We should also comment that the application received by the Tribunal was for the determination of the rent and although documents were provided to show some exchanges about the service charges, it was not clear that was in dispute. The service charges in this case were fixed. The Tribunal's jurisdiction to consider the reasonableness of service charges under the Landlord and Tenant Act 1985 arises when there is a 'variable' service charge. If the tenant considers he has a variable service charge and wishes to make an application under the 1985 Act, then he should contact the Tribunal for the appropriate application form.

Chairman: **Judge Dutton** **Date:** **28 August 2024**

APPEAL PROVISIONS

Rights of appeal

By rule 36(2) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013, the tribunal is required to notify the parties about any right of appeal they may have.

If a party wishes to appeal this decision to the Upper Tribunal (Lands Chamber), then a written application for permission must be made to the First-tier Tribunal at the regional office which has been dealing with the case.

The application for permission to appeal must arrive at the regional office within 28 days after the tribunal sends written reasons for the decision to the person making the application.

If the application is not made within the 28-day time limit, such application must include a request for an extension of time and the reason for not complying with the 28-day time limit; the tribunal will then look at such reason(s) and decide whether to allow the application for permission to appeal to proceed, despite not being within the time limit.

The application for permission to appeal must identify the decision of the tribunal to which it relates (i.e. give the date, the property and the case number), state the grounds of appeal and state the result the party making the application is seeking.

If the tribunal refuses to grant permission to appeal, a further application for permission may be made to the Upper Tribunal (Lands Chamber).

